



Planning and Development Acts 2000 to 2020

Planning Authority: Waterford City and County Council

Planning Register Reference Number: 19/714

Appeal by Colette O'Connell of 4 Davis Street, Dungarvan, County Waterford against the decision made on the 10th day of September, 2020 by Waterford City and County Council in relation to an application by Eddie O'Brien and Alan O'Connor care of Ó Cristóir and Associates Limited of The Old Library Building, Friary Street, Dungarvan, County Waterford for permission for the construction of two number Apartment Blocks on the old Ormonde Hotel site fronting O'Connell Street and Western Terrace consisting of the following: Block A - five storey apartments fronting O'Connell Street to consist of 22 number apartments, plant room along with stairs and lift, and Block B - three storey over surface car park apartments fronting Western Terrace to consist of 11 number apartments, plant room along with stairs and lift. Development to include 23 number car parking spaces, ESB substation, two number bicycle sheds, locker storage area, waste management area, communal outdoor area and all drainage and ancillary works at 69 and 70 O'Connell Street, Dungarvan, County Waterford in accordance with the plans and particulars lodged with the said Council, as amended by the further public notice received by the planning authority on the 19th day of August, 2020, (which decision was to grant subject to conditions a permission for Block A - five storey apartments fronting O'Connell Street to consist of 22 number apartments, plant room along with stairs and lift. Development to include 23 number car parking spaces, ESB substation, two number bicycle sheds, locker storage area,

waste management area, communal outdoor area and all drainage and ancillary works and to refuse permission for Block B - three storey over surface car park apartments fronting Western Terrace to consist of 11 number apartments, plant room along with stairs and lift.

Decision

GRANT permission for Block A - five storey apartments fronting O'Connell Street to consist of 22 number apartments, plant room along with stairs and lift. Development to include 23 number car parking spaces, ESB substation, two number bicycle sheds, locker storage area, waste management area, communal outdoor area and all drainage and ancillary works in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. REFUSE permission for Block B - three storey over surface car park apartments fronting Western Terrace to consist of 11 number apartments, plant room along with stairs and lift based on the reasons and considerations marked (2) under.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations (1)

Having regard to the land-use zoning objectives for the site, as set out in the Dungarvan Town Development Plan 2012-2018 (as extended), to the nature, scale and design of the proposed development and the existing pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of design, height and scale, would provide a suitable level of amenity for future occupants, would not seriously injure the amenities of the area or of property in the vicinity and would therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 7th of August 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This grant of permission relates to Apartment Block A only and associated development, that is, open space, car parking and storage areas. Block B is expressly omitted by way of this permission.

Reason: In the interest of residential amenity.

3. Prior to the commencement of any development on site, the following details shall be submitted to, and agreed in writing with, the planning authority:
 - (a) a revised site layout providing for a vehicular and pedestrian entrance to the site from Western Terrace and detailed elevation drawings of same accompanied by a detailed design specification,
 - (b) a revised site layout providing for the omission of Block B in its entirety,
 - (c) a revised site layout providing for bicycle storage shed for 38 number bicycles, and
 - (d) a revised site layout providing for a total of 16 number spaces to include a disabled parking space within the car parking area, parking spaces numbers 21-23 shall be omitted in their entirety and the relevant area integrated into the garden/community amenity space.

Reason: To facilitate safe access to the site and to comply with national apartment standards, in the interest of the proper planning and sustainable development of the area.

4.
 - (a) The parapet to the front elevation of Apartment Block A shall be removed and the eaves height of the block shall match that of the adjoining property to the west.
 - (b) Vertical bands consisting of stone slips shall be used in place of the proposed rainwater good on the front elevation of Apartment Block A, in order to break up the elevation.
 - (c) The window proportions on the front elevation of Apartment Block A shall match those of the adjoining property to the west.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interests of visual and residential amenity.

5. Details of the materials, colours and textures of all the external finishes to the proposed development (Block A) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. Each apartment shall be used as a single dwelling unit only and shall not be sub-divided in any manner or used as two or more separate habitable units.

Reason: In the interest of the proper planning and sustainable development of the area.

7. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

8. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a satisfactory standard of development.

9. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

10. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, which shall be carried out in full, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interests of the environment and sustainable waste management.

11. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide, inter alia, details and location of the proposed construction compound(s), details of intended construction practice for the development, including noise and dust management measures, measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

12. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

13. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

14. A minimum of 10% of all communal car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, to facilitate the installation of EV charging points/stations at a later date. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of sustainable transport.

15. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any apartment.

Reason: In the interests of amenity and public safety.

16. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

17. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

18. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
- (a) A plan to scale of not less than 1:500 showing –
- (i) the species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder,
- (ii) details of screen planting which shall not include cupressocyparis x leylandii,

- (iii) details of roadside/street planting which shall not include prunus species, and
 - (iv) hard landscaping works, specifying surfacing materials, furniture and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment
- (c) A timescale for implementation including details of phasing.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

19. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

20. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

21. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

In deciding not to accept the Inspector's recommendation to grant permission for Apartment Block B, the Board did not agree that Block B would not seriously injure the visual amenities of the area or the residential amenities of future occupants and agreed with the planning authority that the proposed development would represent a poor design solution for the site and an inactive frontage onto Western Terrace.

Reasons and Considerations (2)

Having regard to the design and internal layout of the proposed development, notwithstanding the amendments made in the course of the planning application, arising from the poor street animation at ground floor level, unsatisfactory pedestrian access and unsatisfactory integration with Apartment Block B, it is considered that the proposed development would seriously injure the visual amenities of the area and the residential amenities of future occupants and would, therefore, be contrary to the proper planning and sustainable development of the area.

Terry Prendergast
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2021.